

Title VI Complaint of the Refugee Communities Coalition of Philadelphia

TABLE OF CONTENTS:

- I. The Complainant: The Refugee Communities Coalition of Philadelphia (RCCP)
- II Summary
- III. Background/Description of Services provided by Department of Public Welfare (DPW) and its district County Assistance Offices (CAOs)
- IV. Factual Allegations
 - A. DPW's failure to provide meaningful access to individuals with limited English proficiency at local welfare offices
 - 1. Failure to identify individuals with limited English proficiency
 - 2. Failure to code and track individuals with limited English proficiency
 - 3. Failure to match individuals with limited English proficiency with caseworkers and CDU workers who speak their languages
 - 4. Failure to post adequate foreign-language signs informing people of their right to interpreting and translating services
 - 5. Failure to utilize interpreting services (telephone and/or in-person) to overcome language barriers
 - 6. Requiring individuals with limited English proficiency to bring their own interpreters (friends, family members, and staff members of RCCP agencies) in order to ensure communication at the welfare office
 - 7. Failure to translate written documents concerning a limited English person's case into that person's primary language
 - 8. Failure to translate educational materials/brochures explaining the services available to individuals with limited English proficiency

H. DPW's failure to provide meaningful access to limited English proficient persons in its administration of welfare-to-work services

1. Failure to orient/inform individuals with limited English proficiency about work requirements, program options, and supportive services
2. Failure to contract with directed job search programs which serve individuals with limited English proficiency or alternatively, to enable them to engage in other useful activities
3. Failure to contract with welfare-to-work providers which adequately serve people with limited English proficiency
4. Placing individuals with limited English proficiency at the "bottom of the pile," thereby denying them the opportunity to take advantage of training programs which could enhance their ability to obtain self-sufficiency
5. Failing to effectively utilize the job readiness services that were available for people with limited English skills under SEAMAAC's Community Solutions program.

V. Remedies Sought

VI. Attachments

Celebration of Diversity, booklet describing RCCP member agencies	1
Letter from James Mulvaney, PCAO dated April 10, 2000	2a
Letter from CLS to Jack Kane, DPW dated May 30, 2000	2b
"CLS Questions and Concerns Regarding PCAO's Plan to Serve People with Limited English Proficiency	2c
SEAMAAC/RCCP Multi-Lingual Poster	3
Letter from CLS to James Mulvaney, PCAO, dated May 18, 2000 (including copy of DPW poster)	4
PCAO Caseworker's "Special Note"	5
Sample Appointment Notice	6
Sample Agreements of Mutual Responsibility	7a-7d
Russian translation of Agreement of Mutual Responsibility	8
Letter from Richard Greenwald, TWC dated August 31, 2000	9

I. The Complainant: The Refugee Communities Coalition of Philadelphia

The complainant is the Refugee Communities Coalition of Philadelphia (hereinafter “RCCP”), a coalition comprised of eight refugee service agencies: the Cambodian Association of Greater Philadelphia (“Cambodian Association”), the Greater Philadelphia Overseas Chinese Association (“Chinese Association”), the Hmong United Association of Philadelphia (“Hmong Association”), the Ethiopian Community Association of Greater Philadelphia (“Ethiopian Association”), the Laotian Family Community Organization of Greater Philadelphia (“Laotian Organization”), the New World Association of Emigrants from Eastern Europe, (“New World Association”), the Vietnamese United National Association of Greater Philadelphia (“Vietnamese Association”) and the Southeast Asian Mutual Assistance Association Coalition (“SEAMAAC”). SEAMAAC is both a coalition and a direct service agency. SEAMAAC plays a facilitative role in much of the coordinated work undertaken by RCCP member agencies. Community Legal Services (CLS) is representing RCCP in this complaint.

RCCP and its member agencies are well known throughout the Greater Philadelphia area for offering critical services to refugee and immigrant populations, including adult basic education, children’s programs, HIV/AIDS education programs, healthy start and maternity programs, employment training and placement programs, senior services programs, and interpreting/translating services. RCCP agencies work with Philadelphia’s most vulnerable immigrants, particularly those confronted by language barriers. In fact, RCCP agencies are often viewed as social service resources for any immigrant who speaks a language other than English or Spanish. In recent years, RCCP agencies have served an increasing number of refugees from places like Sri Lanka, Eritrea, Indonesia, Haiti, and Liberia.¹

RCCP agencies serve populations with substantial numbers of persons. Philadelphia is home to approximately 45,000 Russians, 30,000 Vietnamese, 25,000 ethnic Chinese, 20,000 Cambodians, 7,000 Laotians, 5,000 Ethiopians and 500 Hmong families.² Many if not most of these individuals are still in the process of mastering the English language and are therefore still limited in their English proficiency.³

¹ A brochure, entitled “Celebration of Diversity” offers further descriptions and information regarding the RCCP member agencies. This brochure was compiled as part of a multi-cultural fair sponsored by RCCP in September 2000. (Attachment 1)

² Estimating refugee and immigrant population numbers is difficult, particularly when dealing with immigrant populations with limited English proficiency. Census data tends to significantly under-represent the number of limited English persons. *See*, for example, Pennsylvania State Data Center, “A 2000 Census Update: Counting Everyone” (listing “those who do not speak English primarily” as a special population historically undercounted to a greater extent than the national population).

³ According to the 1990 Census, approximately 54% of persons whose home language is an Asian language did not report speaking English “very well.” *See* Table of 1990 Census

Since RCCP services are targeted at especially vulnerable individuals and families, many of the refugees and immigrants served by RCCP agencies are eligible for DPW-administered cash assistance, medical assistance, or food stamps. Staff members of RCCP agencies have extensive experience with the problems faced by persons on welfare. They are frequently called upon to accompany refugees and immigrants to appointments at welfare offices. From May 1998 to February 2000, RCCP agencies also had a direct relationship with DPW's Philadelphia County Assistance Office through a sub-contact to provide job readiness services through the "Community Solutions contract."⁴

II. Summary

The Department of Public Welfare (DPW) has discriminated and is continuing to discriminate against individuals with limited English proficiency in violation of Title VI, its implementing regulations, and US Department of Health and Human Services (DHHS) policy. Through a pattern of indifference, neglect, and in some instances, choice, DPW has violated the civil rights of persons with limited English proficiency by denying them a meaningful opportunity to participate and succeed in Philadelphia's welfare programs. As a coalition of organizations that provide services to diverse limited English proficiency populations, RCCP is submitting this complaint in response to the severe negative impact DPW's discriminatory practices have on linguistic minorities.

The stated intention of TANF funding and other public assistance benefits is to provide a temporary support while maximizing opportunities for welfare recipients so that they can find employment and achieve economic self-sufficiency. Most families are limited to receiving five years of federally-funded welfare in their lifetimes. Thus, participants must use their time on public assistance prudently and efficiently. As part of its welfare program, DPW must provide information and services to help participants overcome barriers to employment. At almost every stage in the welfare to work process, DPW has failed to make critical information and services available or accessible to limited English proficiency participants. DPW offers an unequal and inferior program for limited English proficiency participants, severely frustrating their efforts to receive assistance and find and keep substantial employment. In a program in which participants must succeed in order to avoid falling further into poverty, DPW is setting up for failure limited English proficient participants who already face added barriers to employment. As a result,

entitled "Language Spoken at Home (Pennsylvania)," Pennsylvania State Data Center.

⁴ RCCP agencies implemented Community Solutions programs through a sub-contract with Educational Data Systems, Inc (EDSI). DPW designed "Community Solutions" to serve Temporary Assistance for Needy Families (TANF) recipients who have completed the initial job search without finding employment. Community Solutions provides a range of pre- and post-employment services to TANF recipients. Program models vary widely and provide such services as job readiness training for particular types of work, job search assistance, internships, paid work experience, and job retention services. For further information on the Community Solutions program, See "The Community Solutions Initiative: Early Implementation Experiences" Mathematica Policy Research Inc., June 22, 1999.

participants with limited English proficiency will exhaust their time limited TANF benefits without gaining the skills they need to get and keep a job.

The primary violations committed by DPW include:

- Failing to provide meaningful access to persons with limited English proficiency at local welfare offices, known as district County Assistance Offices (CAOs); and
- Failing to administer welfare-to-work services in a non-discriminatory manner. The current administration of services designed to educate and train participants for workforce entry effectively precludes non-English speakers from participation.

Despite numerous requests by advocates and individuals with limited English proficiency, DPW has failed to remedy the numerous and complex language access violations which exist in DPW's administration of welfare benefits and services. We therefore ask that the Office of Civil Rights require DPW to take immediate and comprehensive remedial actions to ensure effective communication with and appropriate delivery of services to individuals with limited English proficiency.

III. Background/Description of Services provided by DPW and CAOs

DPW and its County Assistance Offices (CAOs) receive and administer federal grants for the Temporary Assistance for Needy Families (TANF) cash assistance program and for Medical Assistance. TANF is a five year time-limited program in which the receipt of cash assistance is contingent upon recipients satisfying a series of work requirements. The failure to comply with these requirements without good cause results in financial sanctions. The stated mission of the TANF program is to move families off of welfare and into work. This is to be accomplished, in part, by providing welfare recipients special allowances which are monetary supports for needs such as child care, transportation, and clothing. These special allowances are designed to make it possible for recipients to find and maintain employment. To move families toward self-sufficiency, the TANF program also imposes time limits. There is a 60 month time limit on the receipt of cash benefits, and in Pennsylvania welfare recipients must be engaged in a twenty-hour per week work activity after receiving TANF for 24 months. In order to remain compliant with all of the new welfare rules and get the benefits they need, recipients must constantly complete a myriad of paper work such as monthly reporting forms, Agreements of Mutual Responsibility, and child care forms.

A typical individual with limited English proficiency confronts numerous barriers from the moment she attempts to apply for welfare benefits. The CAOs are not equipped to serve people who are not fluent in English. Posters, brochures and directional signs are posted in English only. At the reception desk of the CAO, an individual must ask for an application for benefits from the mostly English speaking personnel. She completes her application with an intake worker who, more than likely, speaks only English. She is then assigned, with no consideration of language needs, to a caseworker. If she qualifies for cash assistance under the TANF program, she is assigned to a Career Development Unit (CDU) worker, another person

with whom she may not be able to communicate. She must attend a TANF initial job search orientation conducted in English.

The CDU worker meets with her to complete an Agreement of Mutual Responsibility (AMR). The AMR, a contract between the welfare recipient and DPW, outlines the steps the recipient will take to achieve self-sufficiency and the assistance the CAO will give to help the recipient achieve this goal. In order for a particular work activity to be approved and supported by the CAO, the activity must be included in the AMR. In Pennsylvania, cash benefits and special allowances are contingent upon a complete AMR.

The first mandatory step in the series of work requirements is completion of the eight-week job search. Recipients are given a choice to do the job search through a contracted provider or independently. If the recipient is unsuccessful in finding a job after the eight-week job search, the recipient may enroll in education or training she thinks will help her become employable. When a recipient has received TANF for 24 months, she must be involved in an approved "work activity" for a minimum of 20 hours per week. The post 24-month requirement is not as flexible as the pre 24-month activity. Post 24-month requirements offer the specific options of paid employment, state subsidized employment, on-the-job training, community service. In order for DPW to accommodate recipients trying to enter the workforce, it has contracted for several types of programs including Rapid Attachment, Single Point of Contact (SPOC), and Greater Philadelphia Works (GPW). These programs offer employment placement and retention services depending on the particular stage of the process.

IV. Factual Allegations

A. DPW has failed to provide meaningful access to individuals with limited English proficiency in its local welfare offices by its:

1. failure to identify clients with limited English proficiency

DPW routinely fails to identify that an individual is not proficient in English or what primary language she speaks. This failure is caused, in part, by a lack of procedures for assessing the primary language of applicants. CAO staff, including receptionist and intake workers, have had little or no training on how to assess the language needs of their clientele. This initial barrier causes individuals with limited English proficiency substantial problems throughout their dealings with the welfare department. Staff of RCCP member agencies frequently speak with caseworkers and CDU workers who are not aware of the primary language of their clients. This makes adequate communication impossible and imposes an illegal burden on the client to find a means of communicating with an English only speaking caseworker.

2. failure to properly code and track limited English proficiency clients

DPW does not have a computerized coding system that adequately tracks individuals with limited English proficiency and alerts staff members of clients' language needs. The applications of all DPW clientele are entered into DPW's computer system. Within this data base is a code for primary language spoken with numbers representing corresponding languages. According to James Mulvaney, Philadelphia Director of Management Services, caseworkers are required to enter language codes.⁵ However, it is the complainants' understanding that language is not a mandatory data field on DPW's computerized case coding system. As a result, caseworkers and other staff routinely fail to enter any data on language, which results in severe undercounting of the total number of limited English proficient households receiving or applying for benefits. RCCP's experience is that a high proportion of Khmer, Vietnamese, Laotian, and Russian-speaking households are not coded as limited English proficient. If the proper code is not entered or does not exist on the system, there is no reliable way to assign caseworkers, alert staff that an interpreter may be necessary, or provide correspondence in the appropriate language. Not only is the current coding system underused but it is incapable of tracking the diversity of languages spoken in the Philadelphia area. Specified computer codes only exist for five foreign languages: Spanish, Khmer (Cambodian), Vietnamese, Laotian, and Russian. This limited coding scheme fails to capture data on prominent language communities in Philadelphia such as Korean, Cantonese (Chinese), and Mandarin (Chinese), as well as other significant language groups like Hmong, Ukrainian and Amharic (Ethiopian).

There is also no procedure in place to ensure codes are entered accurately. The lack of accuracy became evident when SEAMAAC received a list of clients who the PCAO had coded as speaking Khmer, Vietnamese and Laotian, for its Community Solutions program. SEAMAAC discovered that approximately 12% of the clients on the list were coded incorrectly. A common error was that Vietnamese clients were coded as Cambodian and Chinese clients were coded as Vietnamese or Cambodian. A copy of this list, with indication of the errors, is available to OCR upon request.

3. failure to match individuals with limited English proficiency with caseworkers and Career Development Unit (CDU) workers who speak their languages

DPW routinely fails to assign individuals with limited English proficiency to workers with whom they can communicate. For example, RCCP agencies often see Asian persons placed with Asian caseworkers. However, the recipient and the worker will be of different national

⁵ Mr. Mulvaney provided this information as part of an April 10, 2000 letter which offered a broader response to CLS inquiries regarding PCAO policies towards persons with limited English proficiency. See Attachment 2(a). In a May 30, 2000 letter to Jack Kane, chief legal counsel to DPW, See Attachment 2(b), CLS presented questions and concerns regarding PCAO's plan to serve people with limited English proficiency. See Attachment 2(c). CLS received no response to this letter.

origins and thus speak different languages. A Chinese Association advocate has observed that many Chinese clients she works with from Alden, Snyder, and Federal District CAOs are placed with Asian caseworkers who do not speak Chinese. Communication barriers are often compounded by the “double” language barrier when neither the client nor the caseworker’s primary language is English.

Advocates from the New World Association assist mostly Russian speaking clients served by Boulevard District CAO, the district office closest to the heart of Philadelphia’s Russian speaking community. As far as the New World Association is aware, Boulevard has one Russian speaking caseworker. However, Russian speaking clients are rarely placed with this caseworker. Instead, they are matched with caseworkers who cannot communicate with them in Russian, which has led to frequent misunderstandings and problems with their receipt of public assistance. The New World Association recently conducted a informal survey of Russian students participating in a level-1 (beginners) ESL class offered by the Association. Of the fifteen students who were receiving welfare, none had a Russian-speaking caseworker. Only one reported having ever been offered an interpreter. The others reported bringing family members, including children and grandchildren to interpret for them. One woman reported having to pay an interpreter to accompany her to the welfare office. All of these students were clients of Boulevard District CAO, where one would expect DPW’s Russian language resources to be most extensive.

Many individuals with limited English proficiency are never matched with caseworkers with whom they can communicate. Even individuals with limited English proficiency who are eventually matched with caseworkers who speak the necessary language (often after intervention from RCCP agencies or CLS) rarely have CDU workers with whom they can communicate.

Currently, caseworkers and CDU workers are assigned a specific range of recipients according to the first letter of the recipients’ last names or by street address. Cases are rotated periodically to adjust for a balanced work load which is required by the caseworkers’ contract. CAO supervisors often say in response to a request that a recipient be switched to a worker with whom she can communicate that switching a recipient is in violation of the union contract. This practice prevents DPW from utilizing the bilingual personnel it already employs in an efficient manner. It also prevents adequate communication between DPW and their limited English proficiency clientele without the use of outside interpreter services.

4. failure to post adequate signs informing people of the availability of interpreting and translating services

The CAOs do not have appropriate information posted informing individuals with limited English proficiency of the availability of free interpretation and translation services. In 1998, SEAMAAC and the RCCP designed colorful posters including translations into the languages of its member’s communities, and the posters were sent to DPW. (See Attachment 3). The posters were created for display in the district CAOs, in order to encourage people with limited English proficiency to contact RCCP agencies with questions about welfare reform, and to enroll in the job readiness programs offered by the agencies. As far as RCCP is aware, those signs were never posted in the CAOs.

In May of 2000, RCCP observed that some district offices began posting informational signs in six foreign languages, apparently intended to encourage individuals to ask for an interpreter if they needed one. However, the message was vague and several of the translations were incomprehensible.⁶ Without some procedure in place to ensure quality control, competent translation is impossible. Many of the RCCP agency advocates were surprised to learn that the CAOs are supposed to provide interpretation and translation services. As a result of DPW's failure to inform individuals of the availability of interpreting and translating assistance, DPW clientele remain unaware of their rights. This lack of information makes them more vulnerable to caseworkers who tell them to come back with their own interpreters.

5. failure to use interpreting services to overcome language barriers

The CAOs are not effectively communicating with individuals with limited English proficiency through bilingual employees or interpreter services. When bilingual staff are used for interpreting, they often do not interpret adequately or in a professional manner presumably because they have not been trained in the mechanics or ethics of interpreting. Because interpreting duties are not part of CAO staff members' job descriptions, using them to interpret is often an afterthought and an imposition. This leaves non-English speaking clients to be served by untrained, unwilling, and sometimes resentful staff members.

In one case in which the CAO failed use an interpreter, two Russian speaking clients at Boulevard District wanted to start an automobile repair business. They learned from the New World Association that they were eligible to receive up to \$2000 as a special allowance from DPW for equipment in order to start a small business. However, their caseworker told them that they were ineligible for this assistance. The clients believe that their request was dismissed because there was no interpreter and they were not able to adequately explain their need to the caseworker. The clients never received any allowance for starting their new business.

DPW has not assessed or monitored the bilingual capacity of public contact staff, including staff of contracted agencies, to determine if these workers are able to communicate effectively with limited English proficiency participants. Bilingual advocates from RCCP agencies have witnessed inadequate and unprofessional interpretation by bilingual CAO staff. If an individual with limited English proficiency asks for interpretation services other caseworkers are sometimes used. However, they often do not interpret accurately because they summarize and inject their own commentary. New World Association staff members know of only a few Russian speaking employees working at the district CAOs. Although Ms. Levinstein, a

⁶ The poster entitled "Do You Need Help Communicating With Us?," began appearing in CAOs in May 2000 both as a two-sided flyer and a large poster. This poster needs much improvement. In particular, the Spanish translation is absolutely unintelligible and full of spelling mistakes, the other translations are in need of substantial improvement, and the English message itself is ambiguous. A May 18, 2000 letter from CLS to PCAO, See Attachment 4, received no reply. As far as RCCP knows, DPW has not improved upon this incoherent document.

caseworker at Boulevard District can communicate with her Russian speaking clients, she does not interpret for other clients and workers. In the New World Association's experience, she does not translate important forms, such as AMRs into Russian for her clients or for any other clients. Another Russian speaker, "Alina", who worked at Ridge District, was occasionally used as an interpreter, but failed to interpret appropriately. She would not completely or accurately interpret what the caseworkers and clients were trying to say to each other; rather she would summarize the information she felt was important without facilitating a full exchange. These experiences were frustrating, demoralizing, and harmful to this group of clients.

When bilingual staff are not available, the CAOs fail to use other means of interpretation like telephonic or in-person interpretation services. DPW has contracted with the AT&T language line. However, neither RCCP nor CLS have heard of a CAO ever using this resource. When caseworkers are asked about the language line they either do not know about it, do not know how to use it, or say it is too much of an imposition.

The failure to appropriately utilize interpreters has led to misunderstandings, collection of inaccurate or insufficient information, and delays in getting necessary services. For example, workers take information from old applications for re-applications because they cannot communicate with recipients well enough to complete new applications. This has inevitably led to problems such as incorrect benefit amounts and incorrect contact information because information from the original application had changed. Eventually, recipients will lose benefits for which they are eligible, be sanctioned, and/or be charged with overpayments as a result of this incorrect information.

6. requiring individuals with limited English proficiency to bring their own interpreters (e.g., friends, family members or RCCP staff members) to receive services at the welfare office

The CAOs are improperly shifting the burden to find an interpreter onto the clients. New World Association staff have never heard of DPW providing adequate interpretation for a Russian speaking client. Their clients are expressly told by their caseworkers to bring someone with them who is able to interpret. Advocates with the Chinese Association describe clients who are required to bring in their small children to interpret for them at the welfare office.

Another particularly alarming example of this practice is a "Special Note" that a caseworker from Snyder District gives to limited English proficient clients stating in almost unintelligible English that clients must bring interpreters if they do not speak English or Cambodian (See attachment 5). This note was attached to a Cantonese speaker's application for benefits. The caseworker is a Cambodian speaker. The "Special Note" is alarming for several reasons. First, it makes it clear that people who speak neither English nor Cambodian must bring their own interpreter. Second, it unlawfully requires that people who are unable to fill out the English application on their own must return for a separate appointment date to obtain assistance in filling out the application, rather than being able to submit the application on that same day. This causes delays in applications for non-English speakers that do not exist for English speakers which reduces the amount of benefits that will be received. Finally, the "Special Note" is almost

impossible to understand in English. This highlights the problem of placing individuals with limited English proficiency with caseworkers who are themselves limited in English proficiency, but who do not speak the same language as the client.

The “Special Note” is not an isolated case of one caseworker not understanding DPW’s obligation to provide an interpreter. RCCP staff have observed other instances of caseworkers telling limited English persons in writing that they must bring their own interpreters. See Attachment 6. Staff of RCCP agencies are regularly told by CAO staff that non-English speakers should bring interpreters with them, and are routinely told of this “requirement” by their clients. DPW workers have even asked clients in the waiting room who are strangers or mere acquaintances of the non-English speaking client to translate. Clearly, the makeshift interpreter’s language ability is not properly assessed in this circumstance. Further, the use of random people in the waiting room seriously breaches client confidentiality. The children of individuals with limited English proficiency are often asked to interpret with no regard to them missing school, their age, the sensitivity of the matter being discussed, or their competency to interpret. Often their language skills in the parents’ native language are not strong enough to interpret competently.

Even when a recipient finds someone to interpret, some workers will not use the interpreter to speak with the client on the phone, but require the recipient to make a special trip into the CAO with the interpreter. A staff member from the Chinese Association specifically requested to be used as an interpreter over the phone for two of her limited English proficiency clients served by Snyder District. Mr. Chinn, one client’s caseworker, informed her that using an interpreter over the phone was too inconvenient. Ms. Ly, the other client’s caseworker, told the advocate that clients were required to bring an interpreter into the welfare office to bridge the language barrier because using an interpreter over the phone was too inconvenient. Because English speakers often communicate with caseworkers by phone, requiring non-English speakers to come into the office creates a disparity in the manner in which English speakers and non-English speakers are treated.

The failure to provide appropriate language services extends to DPW’s Bureau of Hearings and Appeals (BHA). In one instance, a Russian speaking individual from Boulevard District had requested a fair hearing to contest the termination of her benefits. She was planning to bring her seventeen year old daughter, who spoke English, to the hearing to interpret for her. On the way to the hearing, her daughter fainted. The woman assisted her daughter and then rushed to the hearing office without the daughter, arriving ten minutes late to the hearing. She tried to explain the cause of her lateness, but could not explain herself in English. BHA made no effort to obtain an interpreter to assist the woman in her communication. BHA simply dismissed her case. This individual left Philadelphia shortly thereafter, feeling powerless and disgusted.

7. failure to translate written documents concerning an individual welfare benefits (AMRs, welfare applications, notices) into the person with limited English proficiency’s primary language

DPW sends all notices to non-English and non-Spanish speakers in English. Most written documents are not translated even for recipients with caseworkers who speak their

language. Individuals with limited English proficiency are not provided written information about their cases in their primary language. Many clients that RCCP agencies have seen have no idea what is contained in the documents that they have received in the mail or have signed at the welfare office.

The New World Association staff say that many of their clients bring the English notices they receive from DPW to New World for translation. A staff member estimates that she spends 30% of her day serving as an interpreter and a translator for her clients in their communications with the welfare department, time which could be spent providing other vital services to members of her community.

A common and especially alarming problem is the failure to use an interpreter or a translator when completing the Agreement of Mutual Responsibility (AMR). As stated previously, the AMR, a contract between the welfare recipient and DPW, outlines the steps the recipient will take to achieve self-sufficiency and the assistance the CAO will give to help the recipient achieve this goal. In order for a particular work activity to be approved and supported by the CAO, the activity must be included in the AMR. Unless an activity is approved, the client will not be eligible for special allowances for child care, transportation, clothing, or equipment needed and the activity will not satisfy work requirements.

Caseworkers explain the requirements described in the AMR in English and expect clients to follow them. Attached are four sample AMR's from clients who have very limited English proficiency. (See attachments 7a-7d). On the first two examples, under "plan for self sufficiency" the clients were asked to copy a line that the caseworker had written in English. Neither client knew what the line meant when they copied it, much less the complex work requirements that were explained to them in English. No interpreters were used in completing any of these AMRs and the clients were unaware of what they contained or their significance.

A couple of years ago, a Russian speaking DPW worker translated the AMR form into Russian. (See attachment 8). However, the New World Association says that caseworkers do not use the Russian translation. This demonstrates that either caseworkers are unwilling to use translated materials to properly serve their clients or that there is no system in place to disseminate such resources to caseworkers.

8. failure to translate written documents concerning a limited English person's case into that person's primary language

DPW has created several educational pieces on the welfare-to-work program. However, only one is available in Spanish; the rest are available only in English. There are some Health Management Association materials available in other languages in the CAO waiting rooms, however there are no educational materials or brochures available for the language groups serviced by RCCP. Additionally, applications for public assistance benefits are offered only in English and Spanish.

As far as RCCP is aware, information regarding supplemental programs such as Early

Periodic Screening, Diagnosis, and Treatment (EPSDT), the Disability Advocacy Program (DAP), the Low-Income Home Energy Assistance Program (LIHEAP), Woman, Infants and Children (WIC) and the Pharmaceutical Assistance Contract for the Elderly (PACE) is generally not communicated verbally to limited English persons. The CAO is responsible for disseminating information about these programs during the initial application interview.⁷ However, information about such programs is one of the many things sacrificed when the CAO fails to overcome language barriers with those it serves. Nor is such material made available in the form of translated materials.

One supplemental program, the Fuel Price Emergency Project Supplement Payment, was only available from March 1, 2000 until April 30, 2000. No written notice was made available in a language other than English. Information about the program, which provided a \$250 grant to eligible households that heated with fuel oil, kerosene or propane gas, did not come to the attention of the New World Association until mid-April. Advocates at New World attempted to submit applications on behalf of as many limited English proficiency clients as possible before the program ended, but because of the short notice, many clients missed the deadline and were not approved for the grant.

Information regarding special allowances for child care is only disseminated in English. Notices given to non-English speakers inform clients in English that they must complete specific child care forms and bring them to their welfare interviews. Since individuals with limited English proficiency cannot read the notices, they either fail to get child care benefits at all or have to attend several appointments in order to bring in the appropriate information. Staff of RCCP agencies have had to expend a great deal of resources attempting to educate individuals with limited English proficiency about the child care services offered by DPW because the CAOs are failing to make the information available to non-English speakers.

B. Failures in DPW's administration of welfare-to-work services for individuals with limited English proficiency:

1. failure to orient/inform individuals with limited English proficiency about the work requirements, program options, and supportive services

Because of the language barrier, individuals with limited English proficiency are often not able to get information on welfare services that might be available to them. Recipients referred from Elmwood and Snyder District CAOs to the Vietnamese Association were distrustful of the Vietnamese Association because while at the CAO they were not informed in Vietnamese of the work requirements. Therefore, when they met with the Vietnamese Association job coach who explained that the recipients were required to work, they believed that the Association was forcing them into a work activity so that the Association could collect a fee from DPW. Because no one at the CAO had explained the requirements to them, they felt that the RCCP was making up this requirement for its own benefit.

⁷ See Medical Assistance Eligibility Handbook §304.55.

Some clients of RCCP agencies were required to go to the CAO for half-day "call-in meetings" so that the work requirements could be explained to them. However, the meetings were conducted completely in English. SEAMAAC, while there to promote its program, was asked not to interpret, but rather to explain TANF rules and responsibilities to recipients. This was done with no prior notice or compensation. SEAMAAC representatives provided this service, however as they are not DPW employees, they were not knowledgeable enough to give thorough explanations of all of DPW's complex resources and regulations

2. failure to contract with directed job search programs which effectively serve individuals with limited English proficiency or alternatively, to excuse individuals with limited English proficiency from the eight week job search requirement thereby enabling them to engage in alternate work-related activities

The first work requirement that must be completed by TANF recipients is an eight-week job search. In principle, TANF recipients are free to fulfill their job search obligation by enrolling with a directed job search program or by undertaking an independent job search. However, during the period of RCCP's Community Solutions contract, DPW did not contract with any organizations capable of providing these services to persons who speak neither English nor Spanish.⁸ RCCP knows of no current eight week job search providers which serve people with limited English proficiency in languages other than Spanish.

As a result, limited English TANF recipients are faced with the untenable choice of enrolling in a directed job search program conducted in English or performing an independent job search. RCCP member agencies have heard from Asian-language clients who have been forced to sit through job search programs without understanding a single word being said by instructors or other students. One Cambodian-speaking client known to the Cambodian Association was referred to Work Wise, a directed job search program run through the Mayor's Office of Community Services. She was told by her caseworker that she had to attend Work Wise's job training program from 9 a.m. until 3 p.m. everyday even though she could not speak English. She ended up simply staring at the walls and ceilings, meeting her work requirement but learning nothing in the process. She expressed bewilderment at how it was possible the welfare office could make her take a class it knew she would gain nothing from. She also expressed embarrassment at having to sit through the classes with no ability to participate. Her experience is consistent with that observed by CLS employment law attorneys, who have visited Work Wise on several occasions to offer know-your-rights workshops to the training participants. During these visits, CLS trainers have observed several students who appeared not to understand the presentation due to language barriers. In a conversation with CLS, the

⁸ For the duration of RCCP's Community Solutions contract, the directed, eight week job search programs were referred to as "Rapid Attachment" providers, in reference to the name of the RFP under which the programs were contracted. DPW continues to contract with providers which offer directed job search programs in line with DPW's "work-first" approach of linking job seekers with interviews as quickly as possible. As described in following section these programs are now referred to as "Directed Job Search" or "Upfront."

program's director, Leon Simmons, reported having spoken with district welfare offices about the problem to no avail. A Work Wise instructor acknowledged that the program has no way of communicating with people who speak neither English nor Spanish. She also recalled having informed welfare caseworkers on numerous occasions not to refer such persons to the program: "We tell them we don't have the capacity for these students, but they send them to us anyway." She surmised that perhaps the welfare offices had nowhere else to send them.

A more common experience for limited English speakers is to simply be informed that they must do a "CAO-administered," independent job search, contacting employers on their own. Not only does this deny persons with limited English the option to benefit from participation in a job search program, but this requires them to do perform an activity at which they are likely doomed to fail. Each of RCCP's member agencies employ job coaches who assist limited English persons in their search for employment. In addition, SEAMAAC employs a job developer who works extensively with potential employers, assessing their needs and matching employers with job seekers who meet the qualifications set by the employers. RCCP's extensive experience is that the search for employment presents unique and significant challenges for limited English persons, and that limited English speakers generally must have someone who is bilingual assisting them in their job search in order to have any realistic chance of success in finding employment.

SEAMAAC has identified approximately 100 employers in the Philadelphia region who will on occasion hire persons incapable of effective English communication. However, only a handful of these employers are able to conduct an interview in a language other than English. Even fewer can successfully handle an initial contact by a non-English speaker. Consequently, limited English speakers must have someone who will make those initial contacts for them, and who will act as an interpreter during any consequent interview. To improve the chance of a resulting hire, many employers also need the reassurance that someone or some organization is behind the employee candidate, who will assure him that they will be available for interpretation as needed during their new employee's training phase and for emergencies thereafter.

One problem limited English speaking job hunters face, particularly those who speak the less common languages, is that they find themselves cut off from almost every traditional job search method available to independent job speakers. The limited English speaker, for example, cannot read the classified ads which appear in the Philadelphia Inquirer or the Daily News (which serve as the two primary sources of employment ads in the Delaware Valley) or in any other English language newspaper. Limited English speakers are also incapable of using the computerized job banks available to other independent job seekers, since all information contained in them is in English, and the instructions on how to use the systems are in English as well.

In addition, without English fluency, the job seeker cannot simply stop by businesses to fill out an application. To "cold call" this way, an individual would first need to communicate with a guard, receptionist, or other front line worker, explain why they had come, and persuade the "doorkeeper" to get a human resource person or manager. Therefore, most limited English job seekers never even reach someone with the power to hire or take an application. Without English reading and writing skills, clients also typically have no way of filling out application

forms. The limited English speaker is similarly handicapped when it comes to writing an English language resume, sending a thank-you note following an interview, or conducting any kind of follow up at all.

Although some limited-English speakers do succeed in finding jobs on their own, a closer investigation generally shows that they did indeed have help, even if it was simply volunteer help. Those few who find jobs this way generally “knew someone” who was already working for the employer. That “someone” acted as their liaison, and made all the arrangements for him or her. There are however, two problems with this “networking” arrangement. First, like everyone else, limited English speakers don’t always know someone who can get them a job with their employer at any given time. In fact, if the person in question was one of those lucky individuals who did have someone who could easily get them a job any time he or she asked it is unlikely the client would have been on welfare or presenting himself to one of these programs to start with. The second problem with this arrangement has to do with the type of job available to a job seeker. The type of employer who actively seeks out non-English speakers through non-traditional methods (especially word of mouth in immigrant communities), are often those employers with jobs no one else is willing to perform. Without knowledge of other available choices, these limited English speaker can feel they have no choice but to work in these often “under the table” jobs, that pay extremely low wages, with no benefits, under difficult and possibly dangerous circumstances.

To conclude, the limited-English speaker needs substantially more help than those fluent in English during the job search, the job application process, the interview stage, and the job retention period. To relegate the limited English speaker to an independent job search, as the Philadelphia County Assistance Office most typically does, because no appropriate assistance is available, is simply to give up on the client, without admitting that is exactly what has been done. Rather than wasting two months of their time-limited benefits engaging in a largely futile, frustrating, and at times humiliating exercise, they could instead be spending those two months in ESL classes or other useful and productive activities.

DPW should contract with directed job search providers capable of effectively serving limited English persons, and the development of such programs should be a priority. However, until such time as DPW creates such programs, it should excuse limited English persons from the eight week job search requirement, and should allow them to substitute other work-related activities, such as participation in ESL classes. DPW has the authority to excuse individuals from particular work requirements. In fact, Departmental regulations identify the following circumstance as providing good cause for excusing a person from a work-activity: “The person was placed in an education or training activity that was beyond the capacity of the person to complete, and the person is willing to participate in another activity better suited to the person’s needs and abilities.” 55 Pa. Code § 165.52. Rather than forcing limited English persons to participate in an independent job search beyond their capacity to complete, DPW should give individuals the option to substitute ESL or some other activity for the job search until such time as they can effectively perform an individual search or enroll in a directed job search program which can effectively serve them.

3. Failure to contract with welfare-to-work providers which adequately serve

LEPs

DPW has failed to ensure that limited English clients residing in Philadelphia, particularly those with primary languages other than English and Spanish, have an opportunity to equally participate in the full range of job-readiness and vocational training programs available to English speakers.

At issue are the various programs to which local welfare offices refer persons in Philadelphia attempting to transition from welfare to work through participation in an array of educational, job readiness and vocational training programs.⁹

Most of these programs are organized under the umbrella of the Philadelphia Workforce Development Corporation (PWDC), which was formerly known as the Private Industry Council (PIC). PWDC organizes a complex web of vocational programs. For persons attempting to transition from welfare to work the most important of these programs are Greater Philadelphia Works, Work Opportunities, Single Point of Contact, and directed job search programs.

Greater Philadelphia Works (GPW) is the largest and most important provider of welfare-to-work services in Philadelphia. It is both the City's own welfare-to-work program and functions also as a program of PWDC. Its chief components are a network of neighborhood-based Regional Centers and Philadelphia@Work, a transitional work experience program open to individuals with barriers to employment, such as little or no work history.

The Regional Centers serve as gateways for TANF recipients to access to the GPW system. The benefits and services provided by GPW's Regional Service Centers include: (1) job placement, with the help of "job developers" who identify jobs for GPW customers; (2) case management by employment advisors, who help customers find, keep, and advance in employment, arrange transportation and child care, and address other barriers to employment; (3) behavioral health counseling and referrals; (4) transportation assistance, including 16 weeks of

⁹ This complaint describes the programs generally available to persons on welfare in Philadelphia. There are two specialized programs open to certain refugees and asylees referred by DPW during certain periods of time after which they have been granted refugee or asylum status. The Center for New Americans, run by Jewish Employment Vocational Services (JEVS) is open to individuals during their first twelve months after being granted refugee or asylum status. The Targeted Assistance Program (TAP), a city-operated program, is open to individuals during their second to fifth year after they have been granted refugee or asylum status. Both of these programs offer job placement assistance as well as a limited range of job readiness services. Neither of them offer the range of options available through the programs described below, and neither offer programs which enable persons on TANF to meet their post-24 month work requirements. In addition, the vast majority of persons with limited English proficiency are not eligible for these programs since they do not meet the immigration status and time-period requirements. Most people with limited English proficiency in Philadelphia are either citizens (e.g. Puerto Ricans or naturalized citizens) or adjusted their immigration status through means other than a granting of refugee or asylee status.

SEPTA “transpasses”; (5) expanded child care options; (6) work clothes; (7) skills training; (8) a tiered employment program, that helps customers to advance to more highly paid jobs; and (9) intensive services for homeless TANF recipients, teen parents, and non-custodial parents. From October, 1998 through September, 2000, GPW enrolled 15,011 customers and placed 7,295 in jobs at an average wage rate of \$6.97 per hour. As of August, 2000, its retention rates are 57% at the six month mark after placement in full-time jobs, and 40% at the twelve month mark.

Clients are referred to a Regional Center by their welfare caseworker. In RCCP’s experience, very few clients speaking neither English nor Spanish are actually referred to Regional Centers. Perhaps this is because caseworkers do not believe the clients can be served at the centers. According to Donna Cooper, Vice President for welfare-to-work programs at PWDC, GPW does employ a few staff-members with Asian language capacity. For example, the Regional Centers located in Northwest and South Philadelphia have some bilingual Asian language staff. However, Ms. Cooper acknowledges that clients who speak neither English nor Spanish might not, at present, be effectively served at other Regional Centers. Ms. Cooper states that a big part of the problem is that there have been so few referrals of Asian language clients from welfare offices. According to Ms. Cooper, absent such referrals, there seems to be little justification for expanding Regional Center capacity for serving persons who speak neither English nor Spanish. In addition to having no apparent system in place for communicating with such limited English persons, the Regional Centers have made little effort to develop relationships with businesses willing to employ workers who speak languages other than English and Spanish. There are businesses in Philadelphia potentially capable of and interested in employing limited English persons. GPW should be investing resources in cultivating relationships with these businesses in a similar manner as it does with prospective English-language employer in order to develop its capacity to provide effective job leads to limited English persons who speak neither English nor Spanish.

Philadelphia@Work, a program run by the Transitional Work Corporation as part of Greater Philadelphia Works, places welfare recipients with substantial barriers to employment into paid work experience positions at government and non-profit agencies. Participants are required to work for 25 hours per week and to engage in 10 hours per week of additional training. TWC enrolled 2,686 participants from October, 1998 through October, 2000. Of these, 900 have been placed in permanent jobs. As of October, 2000, there were 430 participants enrolled in the program, 56 in orientation and 374 in transitional jobs.

In principle, Philadelphia@Work accepts participants with limited English skills. Richard Greenwald, President of the Transitional Work Corporation, acknowledges the program’s obligation not to refuse service to anyone on the grounds of language capacity, and has expressed interest in expanding the program’s capacity to serve people with limited English skills. However, Philadelphia@Work at present serves only a small handful of participants who neither speak English nor Spanish.¹⁰ It again appears that much of the blame for the low level of

¹⁰For example, according to a August 31, 2000 letter from Richard Greenwald to Kati Sipp of the Philadelphia Unemployment Project, 1.1% of the individuals served by the program during its second year of operation were Asian. Mr. Greenwald did not specify how many, if

enrollment is due to the failure of district CAOs to refer limited English participants. As was the case in SEAMAAC's Community Solutions program, CDU caseworkers may not be aware of Philadelphia@Work's willingness to attempt to serve Asians with limited English skills. However, the fact is that Philadelphia@Work appears ill-equipped to equally serve people who speak neither English nor Spanish. As far as RCCP knows, only one Philadelphia@Work staff person is capable of speaking an Asian language (Khmer). Philadelphia@Work has also done an inadequate job of recruiting agencies capable of effectively hosting people who speak neither English nor Spanish. RCCP has heard at least one complaint from a client who was placed in an agency in which no one could communicate with her. This made supervision and assignment of work impossible. As a result, the individual simply sat at a desk all day long before she dropped out of the program.

Work Opportunities is a DPW-initiated work experience program modeled after Philadelphia@Work. It is designed as the "program of last resort" for clients who have reached their 24 month time-limit and who do not have a job. It is open only to clients who have failed out of some other program, such as GPW or Philadelphia@Work (described above) or SPOC (described below). Approximately 1200 individuals enrolled in the program during the year 2000. Work Opportunities is a program notorious for problems. It has been criticized for failing to provide participants with job-readiness services, failing to assist clients in arranging the mandatory ten hours of "wrap-around" activities such as GED/ESL classes, and failing to fulfill its purpose of placing individuals in jobs. It has suffered high staff turnover and has gone through numerous changes in administration. As a result of its myriad problems, DPW's Bureau of Employment and Training Programs placed Work Opportunities on probation in 2000. Because Work Opportunities only accepts clients who have failed out of some other program, and because so few clients who speak neither English nor Spanish have actually been referred to those other programs, Work Opportunities serves few, if any, persons who speak neither English nor Spanish. As far as RCCP is aware, it has made no effort whatsoever to reach out to this population or to craft programs which serve them. Work Opportunities' apparent lack of interest in serving people with limited English skills is particularly troublesome given that it may soon be the sole provider of work experience positions. Philadelphia@Work is financed in large part by specially allocated welfare-to-work funding which expires in August 2001. While DPW has committed to continue funding to Philadelphia@Work with TANF dollars through the remainder of 2001, there have been no commitments made beyond that period. Many observers fear that Philadelphia@Work will no longer exist beyond 2001.

Single Point of Contact (SPOC) is the longest standing vocational training program affiliated with DPW. Created in 1987, it is funded both by DPW and the PA Departments of Labor & Industry and Education. It is administered by PWDC in Philadelphia. Clients accepted into the SPOC program are referred to one of several private agencies which contract with PWDC to provide clients with specific job skills. SPOC programs go beyond "soft" skills training (such as resume-writing and interviewing) and offer "hard," job-specific occupational skills in targeted training areas such as construction, clerical/data intensive work, and health and human services. SPOC contractors are also paid to provide one-on-one case management

any, of these Asian participants had limited English skills. See Attachment 9.

services to clients. SPOC is considered by many to be the most desirable of vocational training programs available to people on welfare. As far as RCCP is aware, none of the SPOC contractors serve persons with limited English proficiency. The programs are all administered in English, and therefore, absent interpretation services, a person with limited English skills can not effectively participate in the program.

Moreover, there is a threshold skills test administered to potential SPOC participants which serves to exclude persons with limited English skills from participating in SPOC contracted programs. SPOC participants are required to demonstrate that they meet basic skills requirements before being accepted into the programs. The main instrument for evaluating skills is the Adult Basic Learning Examination (ABLE), which examines an individual's basic verbal and math skills. For years, the test was administered only in English. In recent years, SPOC has apparently started to offer a Spanish language version of the ABLE test on a limited basis. Even though its programs are administered in English, SPOC began to offer a Spanish ABLE test so to provide an accurate assessment of underlying math and verbal skill (apart from the question of whether the person's English is sufficiently strong to allow beneficial participation in programs taught in English). However, SPOC does not administer an ABLE test in languages other than English or Spanish. Nor does it offer an alternate means of evaluating the math and verbal skills of potential SPOC participants. SPOC's failure to offer language accessible test instruments, and its inflexible testing requirement has the obvious effect of excluding persons who speak neither English nor Spanish from participation in SPOC programs, even those who would be able to demonstrate underlying math and verbal proficiency.¹¹ The Regional Centers (described above) also use the ABLE test as a screening mechanism for "post-placement" training with programs offering skill-upgrading training to people once they are placed in employment. The eight post-placement programs are offered only in English.

The New World Association served a Russian speaking individual who wished to enroll in a clerical course offered by the New World Association's "New World Business School" in association with PWDC. The woman, who was enrolled in ESL classes, could not pass the ABLE test, and was therefore refused admission into the course. The New World Association is capable of providing language assistance to Russian speakers with limited English, if such persons were permitted by PWDC to enroll in the course. However, the PWDC's requirement that clients pass the ABLE test in order to be enrolled in the program effectively precludes persons with limited English from participation in this program. Because this individual was not able to improve her skills by enrolling in this program, she is still working at a minimum wage job with limited benefits.

In addition to the programs described, above, CAOs work with a wide range of other vocational training and job placement programs which serve as resources to individuals seeking

¹¹ According to Diane Inverso, Director of Education at the Philadelphia Mayor's Commission on Literacy, ABLE is not generally considered to be an appropriate test for measuring the basic educational skills of limited English persons. According to Ms. Inverso, there are other tests designed for use with limited English persons, such as the Basic English Skills Test (BEST) and the California Adult Student Assessment System (CASAS).

employment. Many of the providers are networked through the Team Pennsylvania CareerLink program. CareerLink is a cooperative of employment services groups, including PWDC, that provides career services such as employment, education and training resources to job seekers. Very few of these providers offer programs which are accessible to non-English speakers. An informal telephone survey of 40 CareerLink agencies conducted by CLS revealed that only five of the forty offered any services whatsoever to people with limited English skills. In each instance, the only services offered was ESL. None of the agencies offered substantive job readiness or vocational training in languages other than English.

4. Placing individuals with limited English proficiency at the “bottom of the pile,” thereby denying them the opportunity to take advantage of training programs which could enhance their ability to obtain self-sufficiency

One of the more negligent features of DPW’s approach toward people with limited English skills is the common practice among many caseworkers of placing the cases of limited English persons “at the bottom of the pile,” ignoring the cases files as if doing so would make them or the persons involved go away. Because caseworkers have no welfare-to-work programs to which they can refer many limited English people, and because there are no readily available resources to assist caseworkers even in communicating with limited English persons, caseworkers often employ an approach of benign neglect.

Staff of RCCP agencies have worked with many limited English persons whose work requirements were not addressed at all by DPW until they had reached their 24 month time-limit, after which their cases could no longer be ignored. During its administration of job-readiness programs under the Community Solutions contract from May 1998-February 2000, RCCP agencies frequently encountered limited English persons who had not yet completed their initial eight week job search, the first work activity ostensibly required of all TANF parents. Many of these individuals had been on welfare for a year or more, but because there were no directed job search programs which could serve them and because many of these persons are incapable of performing an independent job search (as described above), their caseworkers had simply let their cases sit in limbo. However, Community Solutions contract rules prohibited providers from accepting individuals who have not yet completed an eight-week job search. Therefore, SEAMAAC had to reject these individuals from its job readiness programs, enforcing an absurd Catch-22 which doomed clients to stay in limbo. SEAMAAC received calls on occasion from welfare caseworkers who claimed they had no where else to send limited English clients and asked SEAMAAC whether it could, on those grounds, make an exception to the Community Solutions rules and accept into its program people who had not yet completed an eight week job search. SEAMAAC made several requests to DPW to be granted a program exception allowing RCCP agencies to accept clients who had not yet completed an eight week job search into their Community Solutions programs, but the requests were denied.

5. Failing to effectively utilize the job readiness services that were available for people with limited English skills under SEAMAAC’s Community Solutions program.

DPW was unprepared, unable, or unwilling to achieve the goals of its Community

Solutions contract with SEAMAAC, an agency that could address the needs of non-English, non-Spanish speakers. Because of this, RCCP agencies suffered severe under-enrollment in the Community Solutions programs they offered. SEAMAAC's Community Solutions program called for 100 participants per year. In the two years that the program was in operation, there was a total of 70 participants, 40 the first year and 30 the second. The cause of the under-enrollment was DPW's failure to refer appropriate cases, due to DPW's inability to identify limited English clients, the unawareness among most caseworkers of the availability of the program rules, and senselessly rigid program rules (such as the eight week job search prerequisite described above) which required SEAMAAC to refuse entrance to people who could have benefitted from the program.

V. Remedies Sought

The experiences outlined in this complaint demonstrate that DPW has engaged in a pattern of widespread discrimination against people with limited English skills, in violation of its obligations under Title VI of the Civil Rights Act of 1964, 42USC §2000d; its implementing regulations, 45 CFR §80.3 et.al; and OCR's recent Policy Guidance, 65 Fed Reg 52762, 52766-52769 (Aug. 30, 2000).

DPW's failure to ensure meaningful access to the services provided by its County Assistance Offices (CAOs) has placed communities with limited English proficiency at a profound disadvantage made even more significant in the new welfare reform environment. RCCP seeks OCR's assistance in requiring DPW to take prompt action to remedy its system for serving people with limited English proficiency. Given the large size of DPW's programs, its substantial resources, the significant number of persons with limited English proficiency eligible for its services, and the critical importance of CAO services to low-income families, DPW has a legal obligation to develop a comprehensive language assistance program encompassing the full range of elements outlined in DHHS's Title VI Policy Guidance. *See* 65 Fed Reg 52762, 52766-52769 (Aug. 30, 2000). What follows is a list of proposed remedies which draws heavily from the Model Plan presented in DHHS's guidance. *Ibid*, 52771.¹²

I. REMEDIES TO PROVIDE MEANINGFUL ACCESS

A. DPW SERVICES AND BENEFITS AT LOCAL CAOs

1. Develop a comprehensive, publicly available policy on how DPW through its

¹² In addition to DHHS's policy guidance, the following resources were referenced in preparing this list of proposed remedies: CalWORKs Title VI Language Access Complaint filed with OCR against the Los Angeles County Department of Public Social Services (December 16, 1999); the Stipulation, Agreement of Settlement, and Consent Order signed by the Washington State Department of Social and Health Services on March 12, 1991, obligating itself to provide services in accordance with Title VI; OCR's Investigation Letter, dated October 21, 1999, citing Title VI violations by the New York City Human Resources Administration, the New York State Department of Health, and the New York State Office of Temporary and Disability Assistance; Assuring Cultural Competence in Health Care: Recommendations for National Standards and an Outcomes-Focused Research Agenda, April 25, 2000, <<http://www.omhrc.gov/whatsnew/cultural1a.htm>>; Analysis of DHHS OCR LEP Guidance, National Health Law Program, September 27, 2000.

local offices will ensure meaningful access to its benefits and services for persons with limited English proficiency.

2. Post multilingual signs and posters in CAO waiting rooms, reception areas, and other initial points of contact notifying clients of the availability of free interpretation and translation services, encouraging clients to identify themselves as persons needing language assistance, and advising them that they need not bring their own interpreters or translators.¹³
3. Include multilingual statements regarding the availability of interpretation and translation services in brochures, booklets, outreach information and other materials that are routinely disseminated to clients and the public.
4. Utilize multilingual “I speak” cards which enable limited English speaking clientele to identify their primary or preferred language to CAO personnel, such as those already developed by Language Line Services.
5. Develop and implement a strategy to better recruit, hire, and retain proficient bilingual/multilingual staff members to serve persons with limited English proficiency.
6. Develop and distribute to all administrative and district office staff and make publicly available a written interpretation policy which ensures that trained, competent interpretation services are available at all times and readily utilized in a timely manner.
 - a. At a minimum, the policy should include provisions on:
 - i. the types of interpretation services that are available, such as in-house staff interpretation, contracted phone interpretation, and contracted in-person interpretation;
 - ii. when in-person interpreters are to be used as opposed to phone interpreters;
 - iii. when in-house staff are to be utilized and when contracted providers are to be utilized;
 - iv. what protocol to follow to obtain in-house staff interpreters or contracted interpreting services, e.g., whether advance notice is required, and which staff members and/or contracted services to utilize, and how to make the contact for interpreting assistance;

¹³ As previously explained, CAO’s publication entitled “Do You Need Help Communicating With Us?” is inadequate. See Attachment 4.

- v. which languages are covered by in-house staff interpreters and contracted providers and what to do in the event that a client needs assistance in a language not covered by in house or contracted providers.
 - b. Develop and distribute publicly a directory identifying bilingual/multilingual staff within each CAO who are qualified to serve as interpreters and/or translators and including information on the language(s) they speak and their level of fluency (e.g., oral only, written only, or both).
 - c. Develop and implement an official policy by which DPW tests or certifies bilingual staff to ensure language proficiency (both oral and written), interpreting skills, and adherence to standard ethical rules governing interpreters.
 - d. Do not rely upon bilingual staff to serve as interpreters and translators for other staff members unless they understand that their official job responsibilities include providing interpreting and translating assistance to other workers.
 - e. Automatically schedule a qualified interpreter for each office or telephone communication with a person with limited English proficiency unless the person states that interpretation services are not needed.
7. Establish and distribute to all administrators and staff written, publicly available translation policy which addresses how District Offices will ensure meaningful access to written information. This policy should, at minimum, conform with the guidelines set forth in the DHHS Policy Guidance.
- a. DPW should compile a list of documents considered “vital” and therefore required to be translated under section C.3(c)(2) of the Policy Guidance. In the context of CAO services, DPW should define “vital documents” to include:¹⁴
 - i All applications for benefits and services.

Examples include the Common Application Form; the Application for Health Care Coverage under MA/Chip; the Medicare Part-B Premium (“Buy-in”) Application; the Application for child care subsidy payments from Child Care Information Service (CCIS); the

¹⁴ In the list that follows, the examples are provided merely as illustrations. This list is not intended to be exhaustive.

Application for LIHEAP.

- ii All forms necessary for the successful completion of application, redetermination, and continued certification for particular categories of eligibility.

Examples include: Child Support Cooperation Referral; the Child Care Provider Information Sheet; Verification of Child Care Costs sheet, Agreement of Mutual Responsibility, Monthly Reporting Forms, Employability Assessment/Reassessment Forms.¹⁵

- iii All other forms which clients are required to complete or sign.

Examples include consent forms, such as the consent to release of information form.

- iv Letters or notices pertaining to eligibility, ineligibility, overpayment, underpayment, reduction, termination, suspension, change of category, application withdrawal, and need to verify additional information for any services or benefits.¹⁶

- v Blank appeal and client grievance forms.

- vi Community Educational Brochures distributed by DPW to all recipients to inform them of important information and changes regarding Pennsylvania's welfare program.

Examples include:

"Welfare is Changing in Pennsylvania" (February 1997)

"Child Care Works in Pennsylvania" (December 1998)

"Making it Work in Pennsylvania" (April 1998)

"The Food Stamp Program in Pennsylvania" (February 2000)

"Welfare Reform and Kinship Care" (February 1999)

- vii Letters or notices that require a response from the client (such as individual letters from caseworkers) or which notify a client of appointments, hearings, or materials which they need to bring to an appointment or to otherwise provide to DPW.

¹⁵ The Employability Assessment and Reassessment Forms contain completion instructions for clients which must also be translated.

¹⁶ In each of these instances, the CAO is required to issue a notice to clients. See 55 Pa Code § 133.4; 125.24 (c)(7)(vi-vii); Cash Assistance Handbook §177; Medical Assistance Handbook §377

- viii Documents or “tag-lines” that advise clients of the availability of free interpreting and translating assistance.
 - b. DPW’s policy on translation of notices should make clear that there must be no delay in notifying a person with limited English proficiency of approval of benefits due to translating reasons. Such delay would be a violation under Title VI.
 - c. Create a written protocol to evaluate and insure accurate and effective translations of written materials. This protocol should specify the method for selecting translators and ensuring the quality of their work, including:
 - i. A review of methods and procedures used for translating materials from the time the English version is submitted to the printing of the finished translated materials;
 - ii. How translators are recruited and trained;
 - iii. How review of the final translated material is accomplished.
8. Develop, implement, and make publicly available, a written system-wide procedure for hiring and transferring bilingual caseworkers to address language needs within particular CAOs, assigning language-appropriate bilingual intake workers and caseworkers (Ongoing and Career Development Unit) to persons with limited English proficiency, and transferring persons with limited English proficiency to bilingual intake workers and caseworkers within the same CAO. At minimum, such a system must:
- a. Track the language needs of clients in each CAO and reassign bilingual staff to CAOs on a semi-annual basis to correct any language deficiencies
 - b. Automatically reassign limited English cases within a CAO to appropriate bilingual staff
 - c. Establish a system by which persons with limited English proficiency can request to be transferred to a bilingual staff member within a District Office and in which these requests are promptly effectuated.
9. Properly identify and enter into DPW’s computerized case coding system the primary or preferred language spoken by persons with limited English proficiency to ensure that the local offices properly assign bilingual intake workers and caseworkers, offer effective interpretation services, and provide appropriately translated materials. This language identification should also be recorded in the hard copy of the client’s case file.

- A. The computerized code identifying a client's primary or preferred language should be a mandatory data entry field, even for English-speaking clients. All reasonably anticipated languages should be represented by specific codes, rather than a generic "other" category.¹⁷
 - B. For every person identified and coded as limited English proficient, the CAO should also identify and code whether the person is literate in her native language. Providing meaningful access to persons with limited English skills entails communicating with people in a manner they can understand. The CAO should take special measures to offer verbal rather than written language services to illiterate persons with limited English skills.
 - C. Ensure that persons with limited English proficiency are correctly identified in DPW's computerized system and hard-copy case files by inquiring about client language preferences:
 - i at each initial request for services;
 - ii at each regular eligibility review; and
 - iii at each subsequent request for assistance.
10. Require and arrange for ongoing education and training of all staff, including managers, on how to use a phone and in-person interpreters effectively and how to deliver services in a culturally appropriate manner. Caseworkers should receive extensive and ongoing training on the cultural and migration background of prevalent limited English communities served by the CAO. These trainings should include but should not be limited to:
- a. How to work effectively with an interpreter;
 - b. How to be aware of and sensitive to cultural differences;
 - c. How to treat the client as an equal;
 - d. How to be non-judgmental in serving the client; and

¹⁷ For example, the CAO apparently lacks specific codes for major languages spoken by nationality groups serviced by RCCP such as Chinese, Ethiopians and Hmong. The CAO can reasonably anticipate serving people of Chinese nationality whose primary language/dialect is Cantonese, Mandarin, or Fukienese, and can reasonably anticipate serving persons of Ethiopian nationality whose primary language is Amharic or Tigrinya. There is a host of other languages which deserve specific codes. The CAO should develop and continually add to this list as part of its assessment of the language needs of people in Philadelphia who are potentially eligible for benefits.

- e. How to be open and sensitive to the specific needs of each client.
- 11. Create a community advisory committee comprised of DPW policy makers and staff, clients with limited English proficiency, and community and legal organizations. The charge of the committee would be to, among other tasks, propose policy changes, create training models, and monitor compliance.
- 12. Develop procedures to address complaints or grievances about unfair, culturally insensitive or discriminatory treatment, difficulty in accessing services, or denial of services. The community advisory committee should be involved in the investigation and resolution of grievances.
- 13. Use a variety of methods to collect and utilize accurate demographic and cultural data for racial and ethnic groups in CAO service areas.
- 14. Become informed about the ethnic/cultural needs, resources, and assets of the surrounding community. Use this information to plan and implement services and collaborate with community-based ethnic organizations and private providers who can assist with outreach and service delivery to different ethnic groups.
- 15. As part of DPW's data-tracking system, collect, maintain, and make publicly available data regarding persons with limited English skills served by DPW and the services offered by DPW to the different language populations.

Such data should include the number of people with limited English proficiency complaints and their resolutions; any data upon which DPW has based its determination to provide written translations of documents; the number of persons by language group who received cash benefits, medical assistance, food stamps, and special allowances during the year; the number of persons with limited English proficiency by language group for whom interpreter services were used and the source of the interpretation; expenditures for interpreter services, by language group; and a report on staff training, including the date of the training, the name and affiliation of the trainer, and the names and categories of the individuals in attendance.¹⁸

B. WELFARE-TO-WORK SERVICES

- 16. Develop, fund, and implement vocational education and job training programs

¹⁸ One useful source for guidance on the collection of race and ethnicity data can be found in the revised Office of Management and Budget (OMB) standards for Maintaining, Collecting and Presenting Federal Data on Race and Ethnicity, at 65 Fed. Reg. 58782 (October 30, 1997). The revised OMB standards establish new race and ethnicity reporting categories replacing prior directives.

targeted at and accessible to persons with little or no English skills. Ensure that these programs are, at minimum, equivalent in range and quality of services to those provided to English-speaking clients.

To maximize success, these programs should include ESL instruction and work-related basic education.¹⁹ Because of the particular needs of people with limited English skills and DPW's past and ongoing failure to offer programs accessible to this population, the programs should be open to people even if they have reached their 24- or 60-month time limits.²⁰

17. Properly identify and enter into DPW's computerized case coding system the primary language spoken by persons with limited English skill so that referrals to job providers and vocational training programs which specifically serve those persons can be made.
18. In the primary or preferred language of a person with limited English skill, provide information on welfare-to-work requirements, program options, and supportive services including but not limited to information on child care, vocational assessment, domestic violence counseling, mental health, and treatment for drug or alcohol problems.
19. Contract with eight-week job search programs that are language-accessible to persons with limited English proficiency or, alternatively, excuse these persons from the requirement that they complete the eight-week job search before participating in other more useful work-related activities. Contracted agencies should be notified that they may serve these individuals without prior completion of the eight-week job search.
20. Implement a policy to ensure that persons with limited English proficiency are not steered into work programs that offer only lower-skilled and lower-paying employment options so they have the same opportunity as English-speaking

¹⁹ Model programs, such as the El Paso Community College's Literacy and Workforce Development Center, integrate ESL instruction and work-related basic education with job-specific training. See Julie Strawn, "Beyond Job Search or Basic Education: Rethinking the Role of Skills in Welfare Reform," (CLASP, April 1998).

²⁰ Funding for such programs could come from a variety of sources depending on the particular characteristics of the program, including TANF for persons who have not reached their time-limit, Maintenance of Effort (MOE) funds for persons who have reached their time-limit, and "non-assistance" TANF funding for participants in wage subsidized work experience programs or persons who are already working part-time. For a fuller discussion of funding options, *see* State Policy Documentation Project at www.spdp.org and Schott, Liz, et al. Highlights of the Final TANF Regulations. Center on Budget and Policy Priorities, April 29, 1999.

clients to develop and acquire skills necessary to improve their economic well-being.

21. Eliminate initial qualification testing so that otherwise qualified limited English speakers are not automatically screened out of training for not being able to pass the ABE or an equivalent test.
22. Collect necessary data on welfare-to-work assignments and employment outcomes by primary language and use this information to assess whether DPW's welfare-to-work program is being equally accessed by persons with limited English proficiency.

C. REMEDIES TO ADDRESS THE IMPACT OF DPW'S DISCRIMINATORY PRACTICES ON THE 24 and 60-MONTH TANF TIME-LIMITS

23. Take people with limited English skills "off the 60-month clock" through implementation of alternate funding options.²¹

Those with limited English proficiency who have not been able to benefit from the welfare-to-work program because of DPW's discriminatory practices should not have their TANF assistance subject to the 60-month time limit in the same manner as English speakers. Those denied access to language-accessible services have missed the opportunity to use their time on TANF to participate in education, training, or work experience programs that enhance their preparation for moving from welfare to work. Others may simply need additional time to become self-sufficient due to the special obstacles imposed by language barriers. It is both unfair and improper under Title VI to subject these individuals and their families to the same time-table as English proficient persons.

24. DPW should reset the 24-month state clock after which participation in education and training programs no longer satisfies the work requirement. The clock should be re-set to begin when language-accessible vocational training programs are made available to the individual.
25. Recognize limited English proficiency as an employment barrier warranting consideration under the 20% hardship exemption even for persons who have received language-accessible services.

The TANF program permits states to extend benefits beyond 60 months for up to 20% of the caseload that has reached its 60-month time limit. The existence of a language barrier should certainly be one of the several factors which justify consideration under the 20% hardship exemption.

²¹ As explained in footnote #20.

II. MONITORING AND COMPLIANCE

26. Develop an official, publicly available, written policy detailing how DPW and its local offices will monitor the accessibility of DPW services and benefits to persons with limited English proficiency.
27. Identify a Title VI Coordinator for each CAO who will manage and oversee implementation of DPW's official policy regarding accessibility for persons with limited English skill. Responsibilities of this position shall include, but are not restricted to:
 - a. Supervising interpreters, bilingual workers, and interpreter and translation services and monitoring the quality, effectiveness, and accuracy of those services;
 - b. Training existing and new employees regarding language assistance to persons with limited English proficiency;
 - c. Developing testing and hiring criteria for interpreters, translators, and bilingual/multilingual staff;
 - d. Fielding questions, concerns, and grievances of persons with limited English proficiency, their representatives, and community organizations, and expeditiously resolving them;
 - e. Coordinating outreach to communities with limited English proficient members who are served by that CAO to give notice regarding free language assistance; and
 - f. Periodically reviewing offices and staff to assess the effectiveness of procedures established for providing language assistance.
28. Identify a Title VI Coordinator for the Philadelphia region. This coordinator should oversee compliance for the PCAO and coordinate the community advisory committee.
29. Conduct an immediate case record review to identify and remedy cases in which the CAO's failure to provide language-appropriate services was a contributing factor in an individual's or family's case closing, reduction of benefits, or sanction. In the event that the CAO's failure to provide language-appropriate services contributed to the sanction, reduction, or closing, benefits should be retroactively restored, without such benefits counting towards the TANF time-limit. Such a review should include, at minimum:
 - a. all cases in which a support cooperation or work sanction has been imposed since March 1997, the month DPW implemented its state TANF

plan

- b. all cases since March 1997 in which the head-of-household (or “payment name”) was coded as having a primary language other than English and in which the case was closed for some reason other than excess income
 - c. a random sampling of physical case records in which cases were closed for some reason other than excess income since March 1997, to determine whether the household included persons with primary languages other than English and, if so, whether DPW’s failure to provide language-appropriate services (including untranslated, incomplete, or incorrectly translated notices) was a contributing factor in the case closing.
30. Require each CAO to periodically conduct a self-audit, the purpose of which is to monitor compliance with DPW’s language access protocol and to take corrective action where needed.
- a. The audits should occur every month for one year, every three months for the following year, and every six months thereafter.
 - b. The audits shall be overseen by the Title VI Coordinator for each CAO.
 - c. The audits shall involve each District Office reviewing 5% of its case files in which the head of household (“payment name”) is coded as having a primary language other than English to ensure that the proper language has been coded and translation and interpretation services have been utilized. In addition, DPW should conduct more targeted reviews based on RCCP’s submission of names common to the immigrant communities it serves. Information obtained during the audits should not result in any adverse action for the client.
 - d. The audit shall include identification of the client’s language preference, computer-coding of that language preference, documentation of interpreter usage and translated written communications, and corrective actions taken, if required.
31. Create a publically available, annual report of how DPW is implementing linguistically and culturally appropriate services and the performance of each district office, including information on programs, staffing, and resources.

Respectfully Submitted to the Office of Civil Rights by Community Legal Services on behalf of the Refugee Communities Coalition of Philadelphia,

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